

Smoke-free Apartments in Utah

A Guide for Apartment Managers

Utah's Smoke-free Apartment and Condominium Guide

Apartment and condominium residents, managers, and owners can now breathe easier. The Utah Smoke-Free Apartment and Condominium Guide, an online resource, promotes smoke-free housing in Utah. Nationally, 50,000 people die each year as a result of secondhand smoke (SHS) exposure.

Additionally, hundreds of thousands of people exposed to it suffer various other illnesses, such as asthma and bronchitis. While many Utahns appear to be taking steps to avoid SHS, recent UDOH data show more than 25,000 children still live in homes where they are exposed. "Smoke-free policies not only protect tenants' health, but they are also a sound business practice," says Cassandra Fairclough, Health Program Specialist, UDOH. "Adopting smoke-free policies is simple and inexpensive. These policies can reduce fire hazards, cleaning and maintenance costs, and time spent addressing

tenant complaints about smoke drifting from unit to unit." The Smoke-Free Apartment and Condominium Guide includes useful tools for managers and owners to help create smoke-free environments. The benefits of smoke-free units/buildings; how to eliminate drifting smoke; and types of smoke-free policies are just a few of the resources available to managers. The website also provides residents with information about the health effects of SHS, ways to reduce exposure to SHS, tips on what one should know before renting, and how to resolve problems.



Smoke-Free Community

Frequently Asked Questions About Smoke-free Housing

1. Why are smoke-free apartments legal? The rights of non-smokers to be free from exposure to SHS is protected by both legislation and laws. There are federal and state laws protecting non-smokers. Advertising "smoke-free" or "no-smoking" is also legal.

2. Would a smoke-free policy legally or unfairly discriminate against smokers? No. The privilege to smoke is not a right that is protected under the Civil Rights Act because smokers are not a protected class under federal law.

3. Will I lose money if I implement a smoke-free policy? You could actually save money with a smoke-free policy. Smoking is the

cause of a variety of expensive property damages, ranging from extra cleaning costs to fire-related repairs. It can cost up to twice as much to prepare or repair a unit to rent that a smoker has lived in. Additionally, more individuals are requesting smoke-free housing in multiple-dwelling units.

4. Would a smoke-free policy instigate a lawsuit from an angry smoker? You will more likely face a lawsuit from a frustrated non-smoker than from a smoker. Legal cases involving various apartment dwellings throughout the U.S. have been filed and won by tenants.

5. Would enforcement of a smoking ban be difficult? Once

you implement a policy, smoking would be so noticeable that others would report it. You would use the same policy you use for other violations of the rules.



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Special points of interest:

- Ninety-three percent of Utahns have implemented rules against smoking their home, and 98% of Utah children live in smoke-free homes.
- There are more than 17,000 smoke-free units that have been identified as smoke-free throughout Utah.
- Nationally, there are over 230 public housing authorities/commissions that have implemented a smoke-free policy.

Steps for Promoting Smoke-free Policies

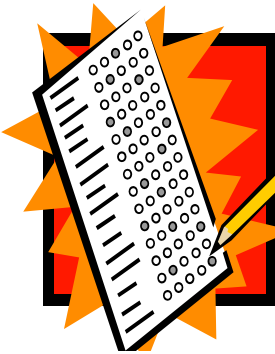
- Know the facts about the dangers and health effects of secondhand smoke.
- Talk to residents and building owners. Find out their overall attitudes about smoking and if they support smoke-free areas. Consider doing a resident survey.
- Raise awareness about the problem of drifting smoke in multiple unit housing.
- Include residents in developing a plan to eliminate secondhand smoke. Present facts on the harmful effects of secondhand smoke and the results of the resident survey.
- Notify residents of the plan. Send each unit a written notice of the new policy.
- Implement the new policy. Post the policy in common areas and include the smoke-free requirements in rental and/or lease agreements.
- Post "No Smoking" signs in appropriate areas.

Surveys: Residents Support Smoke-free Housing

As a manager or owner considering the implementation of a smoke-free policy, you may be concerned about how your residents feel about smoke-free policies. Numerous surveys over the past few years indicate that there is a market for smoke-free apartments and condominiums. For example, the American Lung Association of California's Center for Tobacco Policy and Organizing surveyed 602 residents throughout

California. The survey found that:

- 46 percent of respondents had experienced secondhand smoke drifting in their apartment
- 59 percent said they believe that secondhand smoke can drift from one apartment to another
- 72 percent said they believe that secondhand



69% of Californian tenants surveyed support non-smoking policies

smoke can drift in an apartment from the outside

- 69 percent of respondents favored regulations requiring all apartment buildings to offer non-smoking sections where all apartments, patios, and balconies are non-smoking

For additional survey results, see Smoke-free Law

Project at <http://www.tcsg.org/sfelp/public.htm>.

Benefits of a Smoke-free Apartment of Condominium Community

The greatest benefit of a smoke-free apartment or condo complex is the elimination of the health risks associated with secondhand smoke. In addition, smoke-free units may:

- Save money by reducing the damage that smoke causes (e.g. costs associated with cleaning carpets, walls, and repairing property from burns).

- Reduce fire risk, which may also reduce insurance costs. Smoking materials (e.g. cigarettes, cigars, lighters, matches, etc.) are the leading cause of home and total fire deaths in the United States. In 2008, there were nearly 115,000 fires related to smoking materials. These fires caused 680 deaths, 1,520 injuries and \$737 million in direct property

"In our experience it costs Nampa Housing Authority nearly double the amount of money in time and materials to make a smoker's unit ready for lease - vs.- that of a non-smoker."

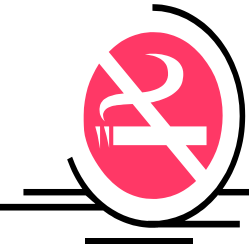
damage. One out of four victims of smoking material fires is not the smoker whose cigarette started the fire.

Creating a Smoke-free Apartment or Condominium

- * Talk about going smoke-free. As a manager or owner you can discuss with your tenants ways to make their environment smoke-free.
- * Don't allow smoking in your apartment or condominium. Politely ask individuals to smoke outside, away from entrances and air intakes.
- * Amend the rental lease, or condominium association agreement. Include language

so tenants are aware of the smoking policy and their obligations not to smoke or allow others to smoke in the unit.

- * If you allow smoking, specify in the lease where smoking is allowed.
- * Make signs available that indicate a smoke-free environment. Remember you are targeting a behavior that annoys other tenants and causes health problems.



Post "No Smoking" signs in areas where smoking is not allowed

If there is more than one building in a complex, designate buildings as "smoking" and "non-smoking."

- * Offer incentives to support a smoke-free policy. For

example, moving into a freshly painted unit helps create a smoke-free building.

Utah Secondhand Smoke Amendments

The secondhand smoke amendments were passed by the Utah State Legislature in 1997. These amendments apply specifically to tobacco smoke that drifts into any residential unit a person rents, leases, or owns from another residential or commercial unit.

The amendments:

- * Give authority to condominium associations to restrict smoking in units, common areas, and yard space §57-8-16-7(a)(b).
- * Give authority for apartment rental contracts to include prohibitions on smoking in units,

on the premises, or both §57-22-5-1(h).

- * Establish that any tobacco smoke that drifts into any residential unit a person rents, leases, or owns is a nuisance under the law §78B-6-1101(3).
- * Provide that residents of condominiums, apartments, or private homes may seek injunctive relief and/or damages if exposed to nuisance tobacco smoke §78B-6-1101(3).



Smoke-free housing is legal under the law

- * Exempt rental units, such as for vacation or available for only 30 days or less at a time, from the nuisance tobacco provisions §78B-6-1101(4)(a)(5).

- * Provide authority for an apartment renter to file a nuisance action under §78B-6-1101-(6) even if the renter has signed away his rights to file a nuisance.

Implementing Smoke-free Policies

There are numerous ways to implement a policy in your community:

New Buildings: Prohibit smoking from the beginning.

Existing Buildings: Phase-In Consider phasing in smoke-free units in all or part of the building(s). When a smoker vacates, simply rent as a smoke-free unit. Smoke-free policies can also be grandfathered in. This gives your residents who do smoke time to get used to the policy.

Designate specific areas as smoke free: Separate sections, patios/balconies can be designated as smoke free.

Prohibit smoking in common areas: Common use areas such as hallways, patios, doorways, playgrounds, pool areas, etc., can be designated as smoke free.

Signage: Post "No Smoking" signs in areas where smoking is not allowed.

"It is a very positive change that we will continue to have as our policy."

Legal Agreement: Write your no smoking policy into the rental agreement or add a lease addendum. Include language so residents are aware of the no smoking policy and their obligations not to smoke or allow others to smoke in the unit.

Smoke-free Apartment and Condominium Statewide Directory

The Smoke-free Apartment and Condominium Statewide Directory is a list of properties that provide smoke-free environments. This listing is provided as a free service to managers, owners and renters. There are two types of listings in the directory:

- All buildings and units for the complex are smoke free.



<http://www.tobaccofreeutah.org/tobfreehousing.html>

- One or more of the buildings of the complex is smoke free.
- If you are interested in listing your smoke-free community in the

directory, visit the webpage for an online application. A Spanish online directory version is also available.